

ORIGINAL
RECEIVEDBEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

MAR 29 1993

In the Matter of)	
)	CC Docket No. 92-77
Billed Party Preference)	Phase 1
for 0+ InterLATA Calls)	

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYREPLY TO COMMENTS
ON PETITIONS FOR RECONSIDERATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, submits this reply to the comments on the petitions for reconsideration filed by CompTel and several providers of operator services ("OSPs"). CompTel submits that the petitions for reconsideration should be granted and the Commission should adopt a policy of 0+ in the public domain as proposed in this docket.

The petitions agree that the Commission erred by failing to enact a policy of 0+ in the public domain after concluding that AT&T's CIID card practices harmed calling card users and threatened competition in both the operator services and aggregator presubscription markets. Put succinctly, the FCC agreed that the AT&T CIID card harmed the public interest, but permitted the perpetrator of the harm to escape unscathed. Competitors and the calling card public, meanwhile, will continue to suffer as a result of AT&T's actions despite the Commission's token remedy. Reconsideration, therefore, is necessary to correct these errors.

No. of Copies rec'd
List A B C D E

0+4

Not surprisingly, AT&T comes to the Commission's defense. AT&T argues (1) that 0+ dialing is consistent with the use of proprietary calling cards because 0+ dialing works at phones presubscribed to AT&T and (2) that the Commission-ordered education campaign will remedy the customer confusion and eliminate the problem of misdirected 0+ attempts. AT&T is wrong on both counts.

The fact that the CIID card works on a 0+ basis at the large number of phones presubscribed to AT&T is the cause of the problem, not, as AT&T would like the Commission to believe, evidence of the absence of a problem. The Commission was fully supported by the record when it concluded that:

AT&T's share of presubscribed public phone lines . . . means that, as a practical matter, only AT&T is able to issue a proprietary card that is usable with 0+ access at a sufficient number of public phones to make its card marketable and workable as a 0+ proprietary card.¹

Indeed, the record clearly showed that even the larger IXC competitors of AT&T cannot offer a proprietary card that works at a sufficient number of locations to enable it to market 0+ calling for the card, even where such arrangements are technically possible.² A proprietary 0+ card is a tool

¹ CIID Card Order at ¶ 20 (emphasis added).

² For example, Sprint stated that it has always instructed its calling card customers to dial an access code even though the caller could access Sprint simply by dialing 0+. Sprint Comments at 8.

only available to the dominant carrier and can only tend to increase that carrier's dominance.

The ability of callers to dial 0+ at most phones is the engine of the anticompetitive harms. This ability gives the caller a false sense of ubiquity for 0+ dialing. The caller's experience will rapidly create the impression that 0+ dialing is available "everywhere" and lead him to believe that he can disregard AT&T's instructions and dial all calls on a 0+ basis.³ This was the case with AT&T's original dialing instructions, where callers obviously disregarded AT&T's instruction to hang up if they did not hear the "AT&T" brand.

The false sense of ubiquity inevitably leads to unbillable calls being misdirected to AT&T's competitors. As the Commission found, the direct result is an increase in the IXC's costs that the IXC has no way of preventing.

Aggravating this harm is the fact that because it is the minority of cases where the 0+ attempt fails, the caller blames the IXC as the cause of the caller's preferred dialing method being "blocked." This creates a falsely negative impression of the IXC, and harms the IXC's ability to obtain

³ Even using AT&T's estimate of its market share, the odds are that the caller can attempt to dial 0+ all the time and the call will go through at least two out of three times. Moreover, the ability of the LECs to accept the card for intraLATA calls further enhances this feeling of ubiquity and actually encourages 0+ dialing even where a different IXC is presubscribed for interLATA calls.

and retain aggregator presubscription arrangements (particularly in non-payphone situations where the caller is likely to complain to the hospital, hotel, or other aggregator who is providing services to the caller). Thus, AT&T mischaracterizes CompTel's position when it asserts that 0+ dialing at AT&T phones creates "no problems."⁴ To the contrary, the problems found by the FCC in the CIID Card Order are a direct result of the caller's ability to dial 0+ at AT&T phones when using the CIID card.

Second, AT&T is wrong in its assertion that the changes to AT&T's dialing instructions will alleviate all of the problems created by the use of the CIID card. The change in AT&T's instructions is relatively minor. Instead of being told to dial 0+ and hang up if they do not hear the AT&T brand, the caller will now be told to "look at the phone" first. The remainder of the instructions are virtually identical to those already in use. There is no evidence that callers will now heed these revised instructions any more than AT&T's previous instructions. Indeed, as explained above, AT&T's dominant market position teaches its callers

⁴ AT&T Comments at 9. In order to clarify the record, CompTel did not agree (as AT&T asserts) that 0+ dialing creates "no problems." In fact, CompTel stated only that a 0+ call at an AT&T phone goes through "without incident." See CompTel Petition at 5. That is, from the caller's perspective, the call is not interrupted or refused. CompTel has always identified the 0+ dialing capability as the cause of the problem it explained to the Commission.

that they can safely disregard the instructions and suffer no consequences at over two out of three locations.

In addition, CompTel notes that AT&T's revised instructions still do not provide completely accurate dialing instructions for the card. As Southwestern Bell's Petition for Reconsideration illustrates, the fact that the LECs may accept the card could increase the caller's confusion about where and under what circumstances a 0+ attempt is appropriate. The caller simply would not understand why, even at the same phone, he could place one call by dialing 0+ (an intraLATA call), but his next call attempt (an interLATA call) would fail. This confusion undermines any potential effectiveness of AT&T's revised instructions.

AT&T's CIID card will continue to confuse callers as long as it is permitted to blur the long-established separation between proprietary calling cards and the 0+ dialing method. The dialing instructions under a policy of 0+ in the public domain are simple and clear: always dial an

carriers instruct their customers always to use their access code. This experience suggests that when carriers follow the principles of 0+ in the public domain, callers do not become confused. When carriers disregard the policy of 0+ in the public domain, as AT&T did, caller confusion is rampant.

AT&T's attempt to twist CompTel's words concerning industry experience with calling cards (p.6), merely illustrates one of the fundamental inconsistencies with AT&T's position regarding its proprietary card. On the one hand, AT&T argues that access code dialing is easy and understandable when used by MCI and Sprint. On the other hand, access code dialing for its own card "would greatly inconvenience and frustrate customers."⁵ AT&T cannot have it both ways. If AT&T believes that access codes can be easily understood by consumers, then it has no basis for claiming that the mere possibility it might decide to use an access code for its proprietary CIID card is so horrible that this "cost" outweighs the benefits of putting 0+ in the public domain.

⁵ AT&T Comments at 10 (quoting 92-77 comments of Southwestern Bell Telephone Company). AT&T also ignores this inconsistency in its own reasoning by its repeated statements that its proprietary card has fewer cardholders than other IXC proprietary cards, implying that AT&T is merely one of several competitors. Obviously, however, AT&T has issued all of the industry's 0+ proprietary cards.

CONCLUSION

The core of AT&T's argument, and the Commission's decision, is that any transition from monopoly to competition is disruptive and unsettling to a certain number of consumers. Even today, despite the many undeniable benefits brought by competition in 1+ services and CPE, some Americans would prefer the simplicity of an AT&T-Bell monopoly and black rotary dial telephones. These consumers do not see benefit and opportunity in competition, only the need to become educated in order to make informed choices. Fortunately, in 1+ and CPE, the FCC has moved forward without giving in to those who would freeze technology and return to non-competitive markets.

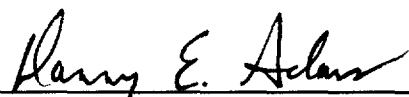
Each such agency ruling, however, has required overcoming AT&T objections to encroachment upon its monopoly power. Unfortunately, in reflecting the policy of 0+ in the

Throughout this proceeding, participants have demonstrated that AT&T's CIID card is a unique threat to competition that is available only to the dominant carrier in the market. AT&T has used the threat of customer confusion and frustration to harm its competitors, bully aggregators, and, most recently, to convince the FCC to avoid adopting a solution that eliminates the anticompetitive effects of AT&T's actions. These tactics have been permitted to succeed for too long. CompTel urges the Commission to rectify the harm already caused by adopting a policy of 0+ in the public domain.

Respectfully submitted,

Genevieve Morelli
Vice President and
General Counsel
**COMPETITIVE
TELECOMMUNICATIONS
ASSOCIATION**
1140 Connecticut Ave., N.W.
Suite 220
Washington, D.C. 20036
(202) 296-6650

By:


Richard E. Wiley
Danny E. Adams
Steven A. Augustino

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

March 29, 1993

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of March, 1993, I caused copies of the foregoing "Reply to Comments on Petitions for Reconsideration" to be mailed via first-class postage prepaid mail to the parties on the attached list.


Carol Konovodoff

SERVICE LIST

Cheryl A. Tritt *
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Gregory M. Vogt *
Chief, Tariff Division
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Colleen Boothby *
Deputy Chief, Tariff Division
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Judy Nitsche *
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Policy & Program Planning
Division *
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

International Transcription
Services *
1919 M Street, N.W., Room 246
Washington, D.C. 20036

Francine J. Berry
Robert J. McKee
Richard H. Rubin
American Telephone and Telegraph
Company
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920

Greg Casey
Caroline Jones
International Telecharge, Inc.
6707 Democracy Blvd.
Bethesda, MD 20817

Douglas F. Brent
Associate Counsel
LDDS Communications, Inc.
10000 Shelbyville Road
Louisville, KY 40223

James E. Taylor
Richard C. Hartgrove
John Paul Walters, Jr.
Southwestern Bell Telephone
Company
1010 Pine Street, Rm. 2114
St. Louis, MO 63101

W. Audie Long, Esq.
U.S. Long Distance
9311 San Pedro
San Antonio, TX 78216

* Hand-delivery